

WEIL, GOTSHAL & MANGES, LLP
Joseph S. Allerhand
Jonathan D. Polkes
Erin J. Law
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Attorneys for Defendant Gregory J. Fleming

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X		
IN RE MERRILL LYNCH & CO., INC.	:	Master File No.:
SECURITIES, DERIVATIVE AND ERISA	:	07-CV-9633 (LBS)(AJP)(DFE)
LITIGATION	:	
----- X		ECF Case
This Document Relates to:	:	
Securities Action, 07cv9633(LBS)(AJP)(DFE)	:	Electronically Filed
----- X		

**NOTICE OF MOTION OF DEFENDANT GREGORY J. FLEMING TO DISMISS
THE CONSOLIDATED AMENDED CLASS ACTION COMPLAINT**

PLEASE TAKE NOTICE that, upon the annexed Consolidated Amended Class Action Complaint in the above-captioned action; the Memorandum of Law in Support of The Motion of Defendant Gregory J. Fleming to Dismiss the Consolidated Amended Class Action Complaint; the Memorandum of Law in Support of The Motion of Defendants Merrill Lynch & Co., Inc., Merrill Lynch Capital Trust I, Merrill Lynch Capital Trust II, Merrill Lynch Capital Trust III and Merrill Lynch, Pierce, Fenner & Smith Incorporated to Dismiss the Consolidated Amended Class Action Complaint and to Strike Certain Allegations; the July 21, 2008 Declaration of Jay B. Kasner, and all prior papers and proceedings herein, defendant Gregory J. Fleming will move this Court, before the Honorable Leonard B. Sand, at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, New York, New York 10007, on a date and at a time designated by the

Court, for an Order: (a) dismissing the Consolidated Amended Complaint with prejudice pursuant to Fed. R. Civ. P. 12(b)(6), Fed. R. Civ. P. 9(b) and the Private Securities Litigation Reform Act of 1995, 15 U.S.C. § 78u-4(b); and (b) for such other and further relief as this Court may deem just and proper.

Dated: New York, New York
July 21, 2008

/s/ Joseph S. Allerhand
Joseph S. Allerhand
Jonathan D. Polkes
Erin J. Law
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
(212) 310-8000

Attorneys for Defendant Gregory J. Fleming

To:

Robert N. Kaplan
Frederic S. Fox
Donald R. Hall
Joel B. Strauss
Jeffrey P. Campisi
Aviah Cohen Pierson
KAPLAN FOX & KILSHEIMER LLP
850 Third Avenue, 14th Floor
New York, New York 10022
Phone: (212) 687-1980
Fax: (212) 687-7714

Attorneys for Plaintiffs

M. Richard Komins
Jeffrey A. Barrack
Robert A. Hoffman
Beth T. Seltzer
Julie B. Palley
BARRACK, RODOS & BACINE
3300 Two Commerce Square
2001 Market Street
Philadelphia, PA 19103
Phone: (215) 963-0600
Fax: (215) 963-0838

Attorneys for Plaintiffs

Michael Chepiga
Paul Curnin
Zachary Feingold
SIMPSON THACHER & BARTLETT LLP
425 Lexington Avenue
New York, New York 10017
Phone: (212) 455-20000
Fax: (212) 455-2502

Attorneys for Defendant E. Stanley O'Neal

Merrill G. Davidoff
Lawrence J. Lederer
Arthur Stock
Lane Vines
Jon Lambiras
BERGER & MONTAGUE, P.C.
1622 Locust Street
Philadelphia, PA 19103
Phone: (215) 875-3000
Fax: (215) 875-4604

Attorneys for Plaintiffs

Jay B. Kasner
Christopher P. Malloy
Scott D. Musoff
SKADDEN, ARPS, SLATE,
MEAGHER & FLOM LLP
Four Times Square
New York, New York 10036
(212) 735-3000

Attorneys for Defendants Merrill Lynch
Merrill Lynch Capital Trust I, Merrill Lynch,
Capital Trust II, Merrill Lynch Capital Trust III,
and Merrill Lynch, Pierce, Fenner & Smith ,
Incorporated

James N. Benedict
George Canellos
Andrew Robertson
MILBANK TWEED HADLEY & McCLOY
LLP
One Chase Manhattan Plaza
New York, New York 10005
Phone: (212) 530-5000
Fax: (212) 530-5219

Attorneys for Defendant Ahmass Fakahany

Michael R. Young
Richard Bernstein
Mei Lin Kwan-Gett
WILLKIE FARR & GALLAGHER LLP
787 Seventh Avenue
New York, New York 10019
Phone: (212) 728-8000
Fax: (212) 728-8111

Attorneys for Defendant Jeffrey Edwards

George Schieren
Mark Holland
Clifford Chance
31 West 52nd Street
New York
New York, New York 10019
Phone (212) 878-8000
Fax: (212) 878-8375

Attorneys for Defendants Citigroup Global
Markets, Morgan Stanley & Co., UBS Securities
and Wachovia Capital Services

Charles Davidow
PAUL WEISS RIFKIND WHARTON &
GARRISON LLP
1285 Avenue of the Americas
New York, New York 10019
Phone 212-373-3000
Fax 212-757-3990

Attorneys for Defendant Deloitte & Touche LLP